

Master Contract Number

K00-MST-001

for

Small Group Videoconferencing Systems

Between the

Department of Information Services

and

GTE Northwest Incorporated

Effective Date: September 13, 1999

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State of Washington
Department of Information Services
PO Box 42445
512 - 12th Avenue SE
Olympia, Washington 98504-2445

Master Contract Terms and Conditions
For the Provision of Small Group Videoconferencing Systems

Master Contract Number K00-MST-001

Parties

This Master Contract is entered into by and between the state of Washington acting through the **Department of Information Services**, an agency of Washington State government (hereinafter "DIS"), and **GTE Northwest Incorporated**, licensed to conduct business in the state of Washington, (hereinafter "Contractor") for the provisioning of Small Group Videoconferencing Systems and related services (hereinafter "Equipment" and "Service") to the State.

Recitals

Whereas, the State of Washington acting by and through DIS conducted an open, competitive acquisition process and issued a Request for Proposal, dated May 6, 1999, Exhibit A hereto, for the purpose of obtaining Small Group Videoconferencing Systems; and

Whereas, GTE Northwest Incorporated submitted a timely Response, Exhibit B hereto and after evaluation, was identified as the apparently successful Contractor; and,

Whereas, the Department of Information Services has determined that entering into a Master Contract with GTE Northwest Incorporated will meet the needs of Purchasers and will be in the State's best interest;

Now therefore, DIS hereby awards to Contractor this Master Contract to furnish Small Group Videoconferencing Systems and Services to Purchasers at the prices set forth on Schedule A in accordance with the terms and conditions of this Master Contract.

This Master Contract is an Optional Use Contract that neither financially binds the State nor otherwise obligates the State to purchase any Equipment or Services hereunder. Nor does this Master Contract prevent the State from purchasing the same or similar Equipment and Services from other sources, *provided that*, all legal acquisition requirements are satisfied. This Master Contract is not for personal use.

1. Definitions

"Acceptance Date" for Contractor-installed Equipment shall mean the date of Purchaser's written notification to Contractor of acceptance of the Equipment; and for Purchaser-installed Equipment, shall mean the date of delivery of the Equipment, or, if delivery of partial orders has been agreed to between Purchaser and Contractor, the last date of delivery of the components of an order.

"Business Days and Hours" shall mean Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.

"Codec" shall mean a stand-alone device which inputs video and audio, encodes it to a digital data stream, and delivers it through an interface to a network. Conversely, it decodes a digital data stream to video and audio. It may optionally contain other functionalities such as echo cancellation, video capabilities such as picture-in-picture, and network provisioning such as inverse multiplexers.

"Contractor" shall mean GTE Northwest Incorporated, its employees and agents. "Contractor" also includes any firm, provider, organization, individual, or other entity providing Equipment or performing Services under this Master Contract. It shall also include any subcontractor retained by Contractor as permitted under the terms of this Master Contract.

"DIS Contract Administrator" shall mean the person designated by DIS as responsible for the maintenance and administration of this Master Contract, notices, reports and any other pertinent documentation or information. The DIS Contract Administrator may also conduct periodic performance or financial audits related to this Master Contract.

"Equipment" shall mean the Small Group Videoconferencing Systems, components and features thereof, including embedded software, if any, and any other Equipment properly added to this Master Contract, all as set forth on Schedule A - *Authorized Product and Price List*.

"K-20 Purchaser" shall mean DIS and the participating educational organizations listed in Schedule C hereto. At the sole discretion of DIS, additional public organizations may be named as authorized K-20 Purchasers and added to Schedule B by DIS through an amendment to this Master Contract.

"Price" shall mean charges, costs, rates, and/or fees charged for the Equipment and Services under this Master Contract and shall be paid in United States dollars.

"Products" shall mean any Contractor supplied Equipment or Software.

"Purchaser" shall mean DIS and any Washington State agency with properly delegated authority to purchase the Equipment and Services which are the subject of this Master Contract, or any political subdivision of the state of Washington or non-profit organization with the authority to purchase such Equipment or Services under a properly executed Interlocal Cooperative Agreement with DIS. **Purchaser** also includes K-20 Purchasers who have a properly executed Interlocal Cooperative Agreement with DIS.

"Services" shall mean those services related to the Equipment being acquired, that are appropriate to the scope of this Master Contract and includes such things as configuration and engineering support, installation services, maintenance, training, etc.

"Small Group System" shall mean a Small Group Videoconference System that is standards based, will accommodate between 4 and 15 people, will run at transfer rates in excess of 112/124kbps, and is complete in scope with no need for additional add-ons.

"Specifications" shall mean the technical and other specifications set forth in the RFP, Exhibit A, and any additional specifications set forth in Contractor's Response, Exhibit B, collectively.

"State" shall mean DIS, any division, section, office, unit or other entity of DIS or any of the officers or other officials lawfully representing DIS. State may also include Purchaser.

"System" shall mean a configuration consisting of a codec, system controller, one or more monitors, one or more cameras, echo canceller and one or more microphones integrated into a roll-around cabinet(s). Options such as integrated VCR or audio mixers may be added.

"Third Party Software" shall mean the object code version of computer programs and any related documentation, excluding maintenance diagnostics, supplied to Contractor by a third party and made available under this Master Contract as "shrink wrap" software to be installed by Contractor on Equipment purchased under this Master Contract.

"GTE Affiliate" means any legal entity that controls, is controlled by, or is under common control with GTE. In the case of a corporation, an entity will be deemed to control that corporation if such entity owns, or has the right to vote, stock in the corporation sufficient to elect a majority of the members of the corporation's board of directors.

Contract Term

2. Term

- 2.1. Initial Term. The initial term of this Master Contract shall be one (1) year, commencing upon the date of its execution by DIS.
- 2.2. Subsequent Terms. The term of this Master Contract may be extended up to an additional three (3) years, *provided that*, the extensions shall be at the option of DIS and shall be effected by DIS giving written notice of its intent to extend this Master Contract to Contractor not less than thirty (30) days prior to the expiration of the then-current Contract term and Contractor accepting such extension prior to the expiration date of the then-current Contract term. Each extension shall be for one year.

3. Survivorship

The terms, conditions and warranties contained in this Master Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Master Contract shall so survive. Specifically, the terms of the sections titled **Software License Terms; Patent and Copyright Indemnification; Disputes; and Limitation of Liability** shall survive the termination of this Master Contract.

Pricing, Invoice and Payment

4. Pricing

- 4.1. Contractor agrees to provide the Equipment and Services at the prices set forth in the *Authorized Product and Price List* attached as Schedule A to this Master Contract. No other prices shall be payable to Contractor, except for the DIS Master Contract Administration Fee. Such prices may not be increased during the term of this Master Contract.
- 4.2. It is expected that the videoconferencing Equipment purchased under this Master Contract may be upgraded with more powerful or newer components to meet Purchaser's functional or technical requirements. Contractor will provide Purchaser's with a trade-in program as set forth in Schedule A.
- 4.3. If Contractor reduces its prices for any of the Equipment or Services during the term of this Master Contract, Purchaser shall have the immediate benefit of such lower prices for new purchases. Contractor will send notice to the DIS Contract Administrator with the reduced prices within fifteen (15) calendar days of the reduction taking effect.
- 4.3. Contractor agrees all the prices, terms, warranties, and benefits provided in this Master Contract are comparable to or better than the terms presently being offered by Contractor to any other governmental entity purchasing the same quantity under similar terms. If Contractor shall, during the term of this Master Contract, enter into contracts with any other governmental entity providing greater benefits or more favorable terms than those provided by this Master Contract, Contractor shall be obligated to provide the same to Purchaser for subsequent purchases.

5. Taxes

Purchaser will pay sales and use taxes imposed on the Equipment or Services at Purchaser's local rate. Contractor shall pay all other taxes including, but not limited to, Washington Business and Occupation Tax, taxes based on Contractor's income, or taxes levied or assessed on Contractor's personal property.

6. Invoice and Payment

- 6.1. Contractor will submit properly itemized invoices to Purchaser. Invoices shall provide the following:
 - a) Contractor's name and address and remittance address, if different;
 - b) Purchaser's name and address, and Purchase Order or Field Order number;
 - c) This Master Contract number (K00-MST-001);
 - d) Description of Equipment, including price, quantity ordered, model and serial numbers;
 - e) Description of Service, including price;
 - f) Date of delivery and/or date of installation and setup;
 - g) Applicable discounts;

- h) Total invoice price, excluding sales tax;
 - i) DIS Master Contract Administration Fee;
 - j) Sales or other applicable taxes;
 - k) Total invoice price; and
 - l) Payment terms including any available prompt payment discounts.
- 6.2. Payments shall be due within thirty (30) days after the Acceptance Date for such Equipment or Thirty (30) days after receipt of properly prepared invoices, whichever is later.
- 6.3. Incorrect or incomplete invoices will be returned by Purchaser to Contractor for correction and reissue.
- 6.4. This Master Contract number (K00-MST-001) shall appear on all invoices, bills of lading, packages, and correspondence relating to this Contract. Purchaser shall not honor drafts, or accept goods on a sight draft basis.
- 6.5. If Purchaser fails to make timely payment, Contractor may invoice Purchaser one percent (1%) per month on the amount overdue or a minimum of \$1.00. Payment will not be considered late if a check or warrant is postmarked within thirty (30) days of the Acceptance Date of the Equipment or receipt of Contractor's properly prepared invoice, whichever is later.

7. Overpayment to Contractor

Contractor shall promptly refund to Purchaser the full amount of any erroneous payment or overpayment, as determined by Purchaser, made to Contractor, upon notice of such.

8. Advance Payment Prohibited

No advance payment shall be made for the Equipment and Services furnished by Contractor under this Master Contract, except that maintenance may be paid for up to one (1) quarter in advance.

Contractor's Responsibilities

9. In-State Presence

Contractor shall have or establish, within sixty (60) days of the effective date of this Master Contract, a place of business within Washington State. All purchase orders will commence at such in-state location. Purchasers shall not be required to deal with any subcontractor for order placement. A subcontractor cannot fulfill this requirement for Contractor.

10. RFP Mandatory Provisions and Technical Requirements

The mandatory RFP provisions and the provisions of Contractor's Response are incorporated into and are essential substantive terms of this Master Contract. Equipment and Service provided under this Master Contract shall meet or exceed all of the mandatory technical requirements of the RFP.

11. Risk of Loss and Shipping

Contractor shall ship all Equipment purchased under this Master Contract, freight prepaid, FOB Purchaser's destination. The method of shipment shall be consistent with the nature of the Equipment and hazards of transportation. Regardless of FOB point, Contractor agrees to bear all risks of loss, damage, or destruction of the Equipment ordered hereunder which occurs prior to the Acceptance Date, except loss or damage attributable to Purchaser's fault or negligence; and such loss, damage, or destruction shall not release Contractor from any obligation hereunder. After the Acceptance Date, the risk of loss or damage shall be borne by Purchaser, except loss or damage attributable to Contractor's fault or negligence.

12. Title

Upon receipt of payment, Contractor shall convey to Purchaser good title to the Equipment, excluding licensed software, free and clear of all liens, pledges, mortgages, encumbrances, or other security interests. Software offered by Contractor under this Master Contract is offered under a license-to-use.

13. Equipment Delivery

- 13.1. Contractor shall deliver the Equipment to Purchaser's location within forty five (45) days of a written order.. For any exception to this delivery date, Contractor shall notify Purchaser and obtain prior approval in writing. Time is of the essence with respect to delivery and Contractor may be subject to liquidated damages, or cancellation of the order, or termination of this Master Contract, or other damages available under law for failure to deliver on time.
- 13.2. All Equipment deliveries made under this Master Contract shall be complete. Unless Contractor has obtained prior written approval from Purchaser, which shall not be unreasonably withheld, incomplete deliveries or backorders will not be accepted. All packages shall be accompanied by a packing slip that identifies all items included with the shipment and Purchaser's Field or Purchase Order number. For all deliveries, Contractor shall have a delivery receipt signed by an authorized representative of Purchaser.

14. Contractor Installation and Set-up

- 14.1. If installation is requested by Purchaser, Contractor shall set up and install the Equipment and have it operational within sixty (60) days of a written order. Failure to meet the installation date(s) may subject Contractor to liquidated damages or cancellation of the order or termination of this Master Contract or other damages available under law, unless such failure is caused by acts or omissions of Purchaser.

- 14.2. Contractor shall provide an Installation Support Plan to the Purchaser. This shall include:
- a) Site preparation;
 - b) Duration of Contractor setup, and Contractor testing;
 - c) Number of Purchaser personnel required during installation;
 - d) Description of the procedures used to deem the system ready for acceptance testing;
 - e) A detailed training plan including onsite equipment administration and user training programs; and
 - f) A detailed resource allocation plan showing the number of Contractor personnel to be involved and their time commitment to the project.
- 14.3. Contractor shall separately itemize all installation and physical requirements for Equipment as listed below:
- a) Air conditioning
 - b) Electrical requirement
 - c) Special grounding
 - d) Cabling requirement
 - e) Weight (floor loading)
 - f) Space requirements
 - g) Humidity and temperature limits
 - h) Noise level
- 14.4. Purchaser shall prepare the facilities to house the Equipment based upon written requirements provided by Contractor in its Response, Exhibit B hereto, as modified in writing and agreed to by the parties. Contractor's specialists shall be available to provide required consultation related to site preparation at no extra cost to Purchaser apart from the costs presented in Contractor's Response. Any requirements for the facilities which were not disclosed in Contractor's Response shall be completed by Contractor at no additional cost to Purchaser.
- 14.5. Contractor is hereby notified that fiber optic, communications, control systems, and other types of cable (collectively called "cabling") may be located within or on Purchaser's grounds and facilities.
- 14.6. Before beginning work on or about Purchaser's premises, Contractor shall contact Purchaser's communications network control center to determine if Purchaser's cabling systems will be impacted and to make necessary arrangements. Prior to the commencement of any work that may impact underground utilities not owned by Purchaser, Contractor agrees to notify affected owners under the requirements of chapter 19.122 RCW, Underground Utilities.
- 14.7. Purchaser hereby permits Contractor to interface with such cabling and design engineering systems in support of the delivery of the Equipment and Services ordered under this Master Contract.
- 14.8. Within five (5) Business Days of the Equipment being installed and operational, Purchaser will provide written notification to Contractor of acceptance of the Equipment

15. Site Responsibilities

While on Purchaser's premises, Contractor, its agents, employees, or subcontractors shall conform in all respects with physical, fire, or other security regulations.

16. Equipment Compatibility, Specifications and Configurations

- 16.1. Contractor shall be responsible to notify Purchaser of the existence of any compatibility issues between Contractor's Equipment and Purchaser's already existing or planned for hardware, software, and cabling. Purchaser will provide Contractor access in a timely fashion to necessary areas and Equipment sites and shall provide Contractor with a list of any existing or planned for hardware, software, and cabling, as necessary.
- 16.2. Each item of Equipment delivered hereunder will conform to that item's detailed Specifications in all respects including, but not limited to: physical characteristics, operating characteristics, space requirements, power requirements, maintenance or warranty characteristics, modularity, compatibility, and the like, as may be modified in writing and agreed to by the parties.
- 16.3. Equipment purchased hereunder, for the purpose of delivery and performance under this Master Contract, shall be grouped together in one or more Equipment, firmware, and/or software configuration as set forth in Contractor's Response. Any such configuration shall be deemed incomplete and undelivered if any item of Equipment within that configuration has not been delivered, or if delivered, not installed or operational in accordance with the **Equipment Delivery and Contractor Installation and Set-up** sections of this Master Contract.
- 16.4. If requested by Purchaser, Contractor agrees to identify, on all items of Equipment supplied under this Master Contract, all appropriate test points for connecting commercially available equipment monitors designed to measure system capacity, performance, or activity.

17. Acceptance Testing

- 17.1. Prior to being generally available to Purchasers, Equipment to be sold pursuant to this Master Contract shall pass acceptance testing as set forth below.
- 17.2. Acceptance testing under this Master Contract will occur on a per Product basis. Such acceptance testing will be conducted on one Product sample for thirty (30) consecutive calendar days and may be conducted by DIS or its designee.
- 17.3. Acceptance will be based on one-hundred percent (100%) successful performance of the Product sample in accordance with its Specifications for the thirty (30) day period. During the acceptance testing period if the Product sample fails to perform to its Specifications, the acceptance testing period will restart. The Product sample will have up to ninety (90) days to successfully complete the thirty (30) day acceptance test. If the Product sample fails to meet the performance requirements, Contractor will remove the sample at no expense to DIS or its designee.
- 17.4. The DIS Contracting Officer will give written notice to Contractor within five (5) days after a Product has passed its acceptance testing. Upon such written notification, the Product shall be available for general purchase under this Master Contract.. Purchaser-

installed Products shall be deemed accepted upon delivery. Contractor-installed Products shall be deemed accepted as set forth in the section titled **Installation**.

- 17.5. A single acceptance test process may validate one or more component samples simultaneously.
- 17.6. The DIS Contracting Officer may waive acceptance testing of any Product at any time during the life of the Contract. Such waiver shall be in writing.
- 17.7. New Products to be added to this Contract are subject to these acceptance testing requirements.
- 17.8. Since Products may continue to be purchased over a period of four (4) years, DIS may determine at some future time during the term of the Contract that it is necessary to confirm a Product's continued compliance with the Specifications by successfully completing the acceptance testing set forth above. The DIS Contracting Officer will notify the Contractor in writing of such determination and may require Contractor to discontinue its sales of the identified Product and suspend any orders that have not already been shipped until the Product has passed its acceptance testing.

18. Training

- 18.1. When requested by Purchaser, Contractor shall provide training at Purchaser's location at time of each installation. The training shall cover all Equipment operations and daily maintenance requirements.
- 18.2. As long as the Equipment purchased under this Master Contract is in use by Purchaser, Purchaser shall have the right to use Contractor's materials for instruction of its personnel at no additional cost, including the right to reproduce Contractor's instructional materials. Such use and reproduction by Purchaser shall not be deemed to violate or infringe upon any patent, copyright, or other proprietary right of the Contractor.

19. Equipment Warranty

- 19.1. Contractor warrants that the Equipment shall be in good operating condition and shall conform to the Specifications and other materials provided to Purchaser as set forth in the section titled **Contractor Commitments, Warranties and Representations**. Contractor further warrants that the Equipment conforms to all mandatory requirements set forth in Exhibit A and all representations contained in Exhibit B.
- 19.2. Contractor's Included Warranty: For a period of one (1) year commencing upon the Acceptance Date, Contractor shall adjust, repair or replace all Equipment that is defective or not performing in conformance with the Specifications, within five (5) Business Days of notification from Purchaser. Contractor shall assume all costs for replacing parts or units, including transportation and delivery fees, if any. If Contractor installed the original Equipment, Contractor shall assume responsibility for re-installation. Any defective equipment shall be repaired or replaced for Purchaser so that it conforms to the Specifications. The warranty also provides on-going software support, updates and enhancements.
- 19.3. Contractor's toll-free "hotline" to allow Purchaser to report Equipment failures and problems is (800) 303-8559.

- 19.4. Contractor's problem escalation procedure is provided in Schedule B, hereto.
- 19.5. Contractor agrees that all warranty service it provides hereunder shall be performed by manufacturer trained, certified, and authorized technicians. Contractor further agrees to act as the sole point of contact for warranty service. Contractor warrants that it has or will obtain and pass through to Purchaser any and all warranties obtained or available from the Original Equipment Manufacturer (OEM), including any replacement, upgraded, or additional Equipment warranties.
- 19.6. Purchaser agrees that Contractor will not be liable for any damages caused by Purchaser's actions or failure of Purchaser to fulfill any of its responsibilities for site installation.
- 19.7. THE WARRANTIES IN THIS MASTER CONTRACT REPLACE ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

20. Maintenance

- 20.1. Contractor will provide the following maintenance plans to Purchasers at prices listed in Schedule A hereto.

a) Option 1 – Low Cost Maintenance

Software Updates, Support - Contractor will provide to the Purchaser all new releases of manufacturer software updates and fixes for installation on all Purchaser-owned equipment. Contractor will also provide unlimited access to toll-free technical telephone support (8:00 a.m. to 5:00 p.m.) for Purchaser's trained technicians to obtain support for the resolution of complex problems and problem identification. Telephone response by the Contractor must occur within two (2) Business Hours of a service call being placed. Contractor will promptly resolve all reported software problems and provide prompt remedial action, if appropriate. Contractor will also provide for the routine distribution of manufacturer's technical or release notes in a variety of media.

Failed parts replacement - Contractor will provide for the prompt replacement of failed parts or components of Purchaser-owned equipment, including, but not limited to, advance shipment of replacement parts from the Contractor's inventory to be received by the Purchaser within two (2) Business Days of a determination that a component has failed. Contractor will pay for the cost of the return shipment of the failed parts. Replacement parts will be at the current manufacturing revision levels, and the cost of reinstallation is to be borne by the Purchaser. Expedited exchange and repair are available at the prices listed in Schedule A.

b) Option 2 - Full Service Maintenance

On-site Support (24/7) - Contractor will provide Equipment and software maintenance with factory-certified technical staff, including full restoration of operations within twenty-four (24) hours of the reported failure or problem. Telephone response by the Contractor must occur within two (2) hours of a service call being placed for "major" failures (system down), and Contractor staff must be at the Purchaser's site within eight (8) hours. Service will include all new releases of software and installation of manufacturer's hardware and software updates and fixes. Service will include unlimited access to toll-free technical telephone support for Purchaser's staff to troubleshoot problems and identify component failures. Service

will also include the replacement of any failed parts or components, at no additional charge to the Purchaser.

- c) Contractor agrees to make service and support available on a time and materials basis at the prices listed in Schedule A

20.2. The Contractor shall support older Product releases for the duration of this Contract. Purchasers are not required to purchase every new release.

20.3. Contractor's problem escalation procedure is provided in Schedule B, hereto.

21. Documentation

Contractor will provide two (2) complete sets of documentation for each Equipment order, including technical, electrical, maintenance, and installation information. Contractor will provide updated documentation for the term of this Master Contract. There shall be no additional charge for this documentation or the updates.

22. Contractor Commitments, Warranties and Representations

Any written commitment by contractor within the scope of this Master Contract shall be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and shall render Contractor liable for damages under the terms of this Master Contract. For purposes of this Master Contract, a commitment by Contractor which shall be in writing includes: (a) prices, discounts, and options committed to remain in force over a specified period of time; and, (b) any warranty or representation made by Contractor in its Response or contained in any literature, descriptions, drawings or specifications accompanying or referred to in a Response as to Equipment or software performance or any other physical, design or functional characteristics of a machine, software package, system, training, service or other product within the scope of this Master Contract.

23. Year 2000 Compliance Warranty

23.1. Y2K Definitions

- a) **"Contractor Supplied System"** means the video products and services provided to Purchasers, including computer software, computer firmware, computer hardware, documentation, data, and other related items which make up Contractor's video products and services, or any component thereof.
- b) **"Calendar-Related"** refers to date values based on the Gregorian Calendar, and to all uses in any manner of those date values, including without limitations manipulations, calculations, conversions, comparisons, and presentation.
- c) **"Date Data"** means any Calendar-Related data in the inclusive range January 1, 1900 through December 31, 2050, which the Contractor Supplied System uses in any manner.
- d) **"System Date"** means any Calendar-Related data value in the inclusive range between January 1, 1985 through December 31, 2035 (including the natural transition between such values), that the Contractor Supplied System shall be able to use as its current date while operating.

- e) **"Century Compliant"** means that the Contractor Supplied System satisfies the requirements set forth in the warranty below.
 - f) **"Century Noncompliant"** means any failure of the Contractor Supplied System to be Century Compliant.
- 23.2 **Warranty.** Contractor warrants that in connection with the Calendar-Related data and Calendar-Related processing of Date Data or of any System Date, the Contractor Supplied System will not malfunction, will not cease to function, will not generate incorrect data, and will not produce incorrect results. (including without limitation processing in connection with each of the following specific dates and the transition to, from, and through each such date: Sept. 9, 1999; December 31, 1999; January 1, 2000; February 28, 2000; February 29, 2000; March 1, 2000; January 1, 2001; December 31, 2004; and January 1, 2005.)
- 23.3 **Future Software and Service Warranty.** Contractor warrants that Contractor Supplied System components to be added this Master Contract in accordance with the provisions titled Additional Services and Equipment will be Century Compliant.
- 23.4 **Failure to Comply.** If Contractor fails to meet the Century Compliance requirements and obligations in a timely and proper manner, then the DIS Contracting Officer shall give Contractor notice of such failure. If such failure is not cured by Contractor within thirty (30) days after such written notice thereof, Contractor's failure to meet Century Compliance requirements will be considered a breach of this Master Contract. If such failure is due solely to third party or Purchase supplied computer software, computer firmware, and/or computer hardware that interfaces with the Contractor Supplied System, or co-exists with the Contractor Supplied system, Contractor shall not be held liable under this Year 2000 Compliance Warranty Provision.

24. Reserved

Purchaser's Authority and Responsibilities

25. Purchaser Use of Master Contract

- 25.1. This Master Contract may be used by authorized Purchasers only and is not for personal use. Reference of this Master Contract Number and/or Purchaser's signature on the order document signifies agreement to comply with such restrictions on the use of covered Equipment and Service. Failure to abide by these restrictions may result in the Purchaser forfeiting the right to make future purchases under this Master Contract.
- 25.2. Purchaser shall also comply with **Export Restrictions** and **Software License Terms** as set forth below and the notice requirements set forth in the provision titled **Contractor's Proprietary Information**. Reference of this Master Contract Number and/or Purchaser's signature on the order document signifies agreement to comply with Contractor's software license terms, export restrictions and protection of Contractor's confidential or proprietary information.

26. Export Restrictions

Purchaser shall not transport or transmit, directly or indirectly, the Equipment or any technical data received from Contractor, nor the direct product derived therefrom, outside the United States or Canada without Contractor's prior written consent and without complying with all export laws and regulations of the United States.

27. Software License Terms

License terms for Third Party Software shall be controlled by the Licensor of such Software and shall be made known to Purchaser at time of Purchase.

Contract Administration

28. Notices

Any notice or demand or other communication required or permitted to be given under this Master Contract or applicable law (except notice of malfunctioning Equipment) shall be effective only if it is in writing, properly addressed, and delivered in person, or sent by facsimile transmission, or by a recognized courier service, or deposited with the United States Postal Service as first-class certified mail, postage prepaid and return receipt requested, to the parties at the following addresses or phone numbers:

To Contractor at:

GTE Northwest Incorporated

Attn: Mary Beth Hines

1800 41st St, WA0104SM

PO Box 1003

Everett]

WA, 98206

Fax number: (425) 261-7945

To DIS at:

State of Washington

Department of Information Services

Attn: **Contract Administrator**

PO Box 42445

512 - 12th Avenue SE

Olympia, WA 98504-2445

Fax number: (360) 664-0711

or to **Purchasers** at the address and fax number listed on their purchase order.

Notwithstanding RCW 1.12.070, such communications shall be effective upon the earlier of receipt or four (4) calendar days after mailing. The notice address and fax numbers as provided herein may be changed only by written notice as provided above.

29. Section Headings, Incorporated Documents and Order of Precedence

29.1. The headings used herein are inserted for convenience only and shall not control or affect the meaning or construction of any of the sections.

29.2. Each of the documents listed below is incorporated by this reference into this Master Contract as though fully set forth herein.

a) Exhibit A - State of Washington, Department of Information Services Request for Proposal for Small Group Videoconferencing Systems dated May 6, 1999;

b) Exhibit B - Contractor's Response, dated Contractor Response Date, including all written information provided with Contractor's Response;

- c) The terms and conditions contained on Purchaser's purchase documents, if used; and,
 - d) All Contractor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, and other written representations Contractor made available to Purchaser and used to effect the sale of Equipment to Purchaser, or purports the Equipment is fit for a particular purpose or attests to the Equipment's engineering level, operating condition, functions, capabilities, or merchantability.
- 29.3. In the event of any inconsistency in this Master Contract, it shall be resolved in the following order of precedence:
- a) Applicable federal and state statutes, laws, and regulations;
 - b) Provisions of this Master Contract (K00-MST-001);
 - c) Schedule A - *Authorized Product and Price List*;
 - d) Exhibit A to this Master Contract;
 - e) Exhibit B to this Master Contract; and
 - f) The terms and conditions contained on Purchaser's purchase documents, if used.

30. Entire Agreement

This Master Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and except as provided in the section **Contractor Commitments, Warranties and Representations**; understandings, agreements, representations, or warranties not contained in this Master Contract or a written amendment hereto shall not be binding on either party. Except as provided herein, no alteration of any of the terms, conditions, delivery, price, quality, or Specifications of this Master Contract will be effective without the written consent of both parties.

31. Additional Services and Equipment

DIS and Contractor agree that additional Equipment and/or Services, which are appropriate to the scope of this Master Contract, may be added to this Master Contract (Schedule A hereto) by an instrument in writing, with the consent of both parties. Such writing shall include a specific description of the additional Equipment and/or Services, pricing and additional terms and conditions as relevant.

32. Authority for Modifications and Amendments

No modification, amendment, alteration, addition or waiver of any section or condition of this Master Contract shall be effective or binding unless in writing and signed by authorized representatives of Contractor and DIS.

33. Independent Status of Contractor

In the performance of this Master Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint venturers, or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever, nor will Contractor

make any claim of right, privilege or benefit which would accrue to an employee under chapter 41.06 RCW, chapter 23B.16 RCW, or Title 51 RCW.

34. Governing Law

This Master Contract shall be governed in all respects by the law and statutes of the state of Washington. Jurisdiction for any action hereunder shall be the Superior Court for the state of Washington. Venue of any action hereunder shall be in the Superior Court for Thurston County, Washington.

35. Subcontractors

Contractor may, with prior written permission from the DIS Contract Administrator, which consent shall not be unreasonable withheld, enter into subcontracts with third parties for performance of any part of Contractor's duties and obligations. In no event shall the existence of a subcontract operate to release or reduce Contractor's liability to Purchaser or DIS for any breach in the performance of Contractor's duties. For purposes of this Master Contract, Contractor agrees that all subcontractors shall be deemed agents of Contractor. Contractor further agrees to hold Purchaser or DIS harmless from acts or omissions of Contractor's subcontractors, their agents, or employees subject to the limitations set forth in the **Limitation of Liability** section of this Contract. Purchaser or DIS shall not be liable for any loss or damage resulting from personal injury, physical loss, harassment of employees, or violations of the **Patent and Copyright Indemnification** section of this Master Contract occasioned by the acts or omissions of Contractor's subcontractors, their agents or employees. The **Patent and Copyright Indemnification** section of this Master Contract shall apply to all subcontractors.

36. Assignment

- 36.1. With the prior written consent of DIS, which consent shall not be unreasonably withheld, Contractor may assign this Master Contract including the proceeds hereof: *provided that*, such assignment shall not operate to relieve Contractor of any of its duties and obligations hereunder, nor shall such assignment affect any remedies available to Purchaser or DIS that may arise from any breach of this Master Contract, its supplements, or warranties made herein, including but not limited to rights of setoff. Notwithstanding the foregoing, Contractor may assign this Contract, in whole or in part, to any other GTE Affiliate by notifying DIS in writing of any such assignment.
- 36.2. With the prior written consent of Contractor, which consent shall not be unreasonably withheld, DIS may assign this Master Contract to any public agency, commission, board, or the like, within the political boundaries of the state of Washington: *provided that*, such assignment shall not operate to relieve DIS of any of its duties and obligations hereunder.

37. Publicity

Contractor agrees to submit to DIS, all advertising, sales promotion, and other publicity matters relating to this agreement or any product furnished by Contractor wherein Purchaser or DIS is mentioned or language is used which infers or implies a connection with Purchaser or DIS. Contractor further agrees not to publish or use such advertising, sales promotion, or publicity matter without the prior written consent of DIS.

38. Review of Contractor's Records

- 38.1. Contractor and its subcontractors shall maintain books, records, documents and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature invoiced in the performance of this Master Contract. Such records shall be retained for six (6) years after the expiration or termination of this Master Contract. Records involving matters in litigation related to this Master Contract shall be kept for one (1) year following the termination of litigation, including all appeals if the litigation has not terminated within five (5) years from the date of expiration or termination of this Master Contract.
- 38.2. All such records shall be subject at reasonable times and upon prior notice, to examination, inspection, copying, or audit by personnel authorized by the DIS Contract Administrator or the Office of the State Auditor and federal officials authorized by law, rule, regulation, or contract, when applicable. During the term of this Master Contract, access to these items will be provided within Thurston County. During the six (6) year period after the Contract term or five (5) year term following litigation, delivery of and access to these items will be at no cost to the State. Contractor shall be responsible for any audit exceptions or disallowed costs incurred by Contractor or any of its subcontractors.
- 38.3. The records retention and review requirements of this section shall be incorporated by Contractor in its subcontracts.
- 38.4. It is agreed that books, records, documents and other evidence of accounting procedures and practices related to Contractor's cost structure, including overhead, general and administrative expenses, and profit factors, shall be excluded from review.

General Provisions

39. Patent and Copyright Indemnification

- 39.1. Contractor will, at its expense, defend or settle any claim against Purchaser that Equipment or Software supplied hereunder infringe any patent, copyright, or trademark. Contractor will pay resulting costs, damages and attorneys' fees awarded by final judgement or agreed upon in a negotiated settlement, *provided that*, Purchaser:
 - a) Promptly notifies Contractor in writing of the claim; and
 - b) Cooperates with and agrees to use its best efforts to encourage the Office of the Attorney General of Washington to grant Contractor sole control of the defense and all related settlement negotiations.
- 39.2. Contractor will pay all costs of such defense and settlement, and any costs and damages awarded by a court or incurred by Purchaser, except costs paid to the Office of the Attorney General as legal fees. If such claim has occurred, or in Contractor's opinion is likely to occur, Purchaser agrees to permit Contractor at its option and expense, either to procure for Purchaser the right to continue using the Equipment or to replace or modify the same so that they become non-infringing and functionally equivalent. If use of the Equipment is enjoined by a court, and Contractor determines that none of these alternatives is reasonably available, Contractor, at its risk and expense, will take back the Equipment and refund its depreciated value. No termination charges will be payable on such returned Equipment, and Purchaser will pay only those charges which were payable

prior to the date of such return. Depreciated value shall be calculated on the basis of a useful life of five (5) years commencing on the date of purchase and shall be an equal amount per year over said useful life. The depreciation for fractional parts of a year shall be prorated based on 365 days per year. In the event the Equipment has been installed less than one year, transportation to the initial installation site paid by Purchaser shall be refunded by Contractor.

39.3. Contractor has no liability for any claim of infringement arising from:

- a) Contractor's compliance with any designs, specifications or instructions of Purchaser;
- b) Modification of the Equipment by Purchaser or a third party without the prior knowledge and approval of Contractor;
- c) Use of the Equipment in a way not specified by Contractor; or
- d) Use of the Equipment with equipment not supplied by Contractor;

unless the claim arose against Contractor's Equipment, Service or software independently of any of these specified actions.

40. Save Harmless

Contractor shall protect, indemnify and save Purchaser and DIS harmless from and against any damage, cost, or liability, resulting from any claim, including reasonable attorneys' fees, for any or all injuries to persons or damage to property arising from intentional, willful or negligent acts or omissions of Contractor, its officers, employees, agents, or subcontractors.

41. Insurance

41.1. Contractor shall, during the term of this Master Contract, maintain in full force and effect, the insurance described in this section with an insurance carrier or carriers licensed to conduct business in the state of Washington and approved by the DIS Contract Administrator, which approval shall not be unreasonably withheld. The minimum acceptable limits and types of coverage shall not be less than \$1 million commingled single limit per occurrence for each of the following categories:

- a) Public liability covering the risks of bodily injury, property damage and personal injury (including death);
- b) General Business Liability; and
- c) Automobile liability (owned or non-owned) covering the risks of personal injury and property damage.

41.2. Premiums on all insurance policies shall be paid by Contractor or its subcontractors. Such insurance policies shall name DIS as an additional insured, shall reference this Master Contract and shall have a condition that they not be revoked by the insurer until thirty (30) calendar days after notice of intended revocation thereof shall have been given to DIS by such insurer.

41.3. Contractor shall furnish to DIS copies of certificates of all required insurance within thirty (30) calendar days of the effective date of this Master Contract.

42. Industrial Insurance Coverage

Prior to performing work under this Master Contract, Contractor shall provide or purchase industrial insurance coverage for its employees, as may be required of an "employer" as defined in Title 51 RCW, and shall maintain full compliance with Title 51 RCW during the course of this Master Contract. Purchaser will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under the industrial insurance laws during the performance of this Master Contract.

43. Licensing Standards

Contractor shall comply with all applicable local, state, and federal licensing requirements and standards necessary in the performance of this Master Contract. (See, for example, chapter 19.02 RCW for state licensing requirements and definitions.)

44. OSHA/WISHA

Contractor represents and warrants that its products, when shipped, are designed and manufactured to meet then current federal and state safety and health regulations. Contractor further agrees to indemnify and hold Purchaser harmless from all damages assessed against Purchaser as a result of the failure of the items furnished under this Master Contract to so comply.

45. Compliance with Civil Rights Laws

During the performance of this Master Contract, Contractor shall comply with all federal and applicable state nondiscrimination laws, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. 12101 *et seq.*; the Americans with Disabilities Act (ADA); and chapter 49.60 RCW, Washington Law Against Discrimination. In the event of Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Master Contract may be rescinded or terminated in whole or in part under the **Termination for Default** section, and Contractor may be declared ineligible for further Contracts with Purchaser. In addition to the cancellation of this Master Contract, Contractor may be subject to penalties under federal and state law.

46. Severability

The terms and conditions of this Master Contract are declared severable. If any term or condition of this Master Contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application.

47. Waiver

Waiver of any breach of any term or condition of this Master Contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Master Contract shall be held to be waived, modified, or deleted except by a written instrument signed by the parties hereto.

48. Treatment of Assets

- 48.1. Title to all property furnished by Purchaser shall remain in Purchaser. Title to all property furnished by Contractor, for which Contractor is entitled to reimbursement under this Master Contract, other than rental payments, shall pass to and vest in Purchaser under the **Title** provisions above. As used in this section **Treatment of Assets**, if the "property" is Contractor's proprietary, copyrighted works, only the applicable license, not title, passes to Purchaser.
- 48.2. Any property of Purchaser furnished to Contractor, unless otherwise provided herein or approved by Purchaser, shall be used only for the performance of this Master Contract.
- 48.3. Contractor shall be responsible for any loss or damage to property of purchaser which results from willful misconduct or negligence on the part of Contractor or which results from the failure on the part of Contractor to maintain and administer that property in accordance with sound management practices.
- 48.4. Upon loss, destruction, or damage to any Purchaser property, Contractor shall notify Purchaser thereof and shall take all reasonable steps to protect that property from further damage.
- 48.5. Contractor shall surrender to Purchaser all Purchaser's property prior to settlement upon completion, termination, or cancellation of this Master Contract.
- 48.6. All references to Contractor under this section shall also include Contractor's employees, agents, or subcontractors.

49. Contractor's Proprietary Information

Contractor acknowledges that DIS is subject to chapter 42.17 RCW, the Public Disclosure Act, and that this Master Contract shall be a public record as defined in RCW 42.17.250 through 42.17.340. Any specific information that Contractor claims to be confidential or proprietary shall be clearly identified as such by Contractor. To the extent consistent with chapter 42.17 RCW, DIS shall maintain the confidentiality of all such information marked confidential or proprietary. If a request is made to view Contractor's proprietary information, DIS will notify Contractor of the request and of the date that the records will be released to the requester unless Contractor obtains a court order enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, DIS will release the requested information on the date specified.

Disputes and Remedies

50. Disputes

- 50.1. In the event a bona fide dispute concerning a question of fact arises between Contractor and Purchaser or DIS and it cannot be resolved between the parties with the aid of the DIS Contract Administrator, either party may initiate the dispute resolution procedure provided herein.
- 50.2. Disputes shall be resolved as quickly as possible. The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three (3) business days.

- a) Both parties shall have three (3) business days to negotiate in good faith to resolve the dispute. If the dispute cannot be resolved within three (3) business days, a dispute resolution panel may be requested in writing by the initiating party, who shall also identify the first panel member.
 - b) Within three (3) business days of receipt of the initiating party's request, the responding party will designate a panel member. The two panel members will appoint a third member to the panel within the next three (3) business days.
 - c) Each of the parties agrees to bear the costs of its own designated panel member. The costs for the third panel member shall be shared equally by the parties.
 - d) The panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.
 - e) The parties agree that the decision of the panel will be binding.
- 50.3. Purchaser, DIS and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Master Contract which are not affected by the dispute.
- 50.4. Purchaser, DIS and Contractor agree to exercise good faith in dispute resolution and, whenever possible, to settle disputes prior to using the dispute resolution panel. No party shall commence litigation against another before the panel has issued its decision on the matter in dispute.
- 50.5. This **Disputes** clause does not preclude the consideration of questions of law in connection with decisions provided for in this clause, *provided that*, nothing in this Master Contract shall be construed as making final the decisions of any administrative official, representative, or board on a question of law.

51. Attorneys' Fees and Costs

If any party brings litigation to enforce any term, condition, or section of this Master Contract, or as a result of this Master Contract in any way, the prevailing party shall be awarded its reasonable attorneys' fees together with necessary fees, expenses, and costs incurred for such litigation at both trial and appellate levels, as well as subsequent to judgement in obtaining execution thereof.

52. Non-Exclusive Remedies

The remedies provided for in this Master Contract shall not be exclusive but are in addition to all other remedies available under law.

53. Liquidated Damages

53.1. Liquidated Damages - General

- a) Any delay by Contractor in meeting the delivery date or installation date, as applicable, will interfere with the proper implementation of Purchaser's programs, causing loss and damage to Purchaser.

- b) As it would be impracticable to fix the actual damage sustained in the event of such failure to perform, Purchaser and Contractor agree that the amount of damage that will be sustained will be the amount set forth in the following sections. The parties agree that Contractor shall pay such amounts as liquidated damages and not as a penalty.
- c) Liquidated damages provided under the terms of the Master Contract are subject to the same limitations as provided in the section titled **Limitation of Liability**.

53.2. Liquidated Damages - Specific

- a) If Contractor fails to deliver or install the Equipment by the agreed upon delivery or installation date, as applicable, Contractor shall provide a revised delivery or installation schedule and pay to Purchaser as fixed and agreed upon liquidated damages, in lieu of all other damages due to such delay, an amount equal to two percent (2%) of the Equipment purchase price (less sales tax) per day, for each calendar day between the specified delivery or installation date and the date that Contractor actually delivers or installs the Equipment, up to a maximum of thirty (30) days.
- b) If the revised delivery or installation date is more than fifteen (15) calendar days from the original delivery or installation date Purchaser may immediately terminate by written notice Contractor's right to deliver or install the Equipment. Purchaser may obtain substitute Equipment from another vendor. In this event, Contractor shall be liable for fixed and agreed upon liquidated damages in the amount specified above, in lieu of all other damages due to such delay, until substitute Equipment is delivered or installed, or a maximum of thirty (30) calendar days have elapsed from the original delivery or installation date.
- c) For Option 2 – Full Service Maintenance: If Contractor's maintenance personnel fail to arrive at Purchaser's installation site within eight (8) hours after notification by Purchaser that maintenance is required, Contractor shall pay to Purchaser as fixed and agreed liquidated damages, in lieu of all other damages due for such non-responsiveness, the sum of fifty dollars (\$50) per hour for each hour between the agreed response time and the actual response time, beginning with the time of notification by Purchaser and ending with the time Contractor's maintenance personnel arrive at Purchaser's site.

54. Limitation of Liability

- 54.1. The parties agree that neither Contractor nor Purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim or demand based on patent or copyright infringement, in which case liability shall be as set forth elsewhere in this Master Contract. The damages specified in the sections titled **Year 2000 Compliance Warranty**, **Review of Contractor's Records**, **OSHA/WISHA** and **Termination for Default** are not consequential, incidental, indirect, or special damages as those terms are used in this section.
- 54.2. Neither Contractor nor Purchaser shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of either Contractor or Purchaser. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than Purchaser acting in either its sovereign or

contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays shall be beyond the reasonable control and without fault or negligence of Contractor, Purchaser, or their respective subcontractors.

- 54.3. If delays are caused by a subcontractor without its fault or negligence, neither Contractor nor Purchaser shall be liable for damages for delays, unless the Equipment or Services were obtainable on comparable terms from other sources in sufficient time to permit Contractor or Purchaser to meet its required performance schedule.
- 54.4. Neither party shall be liable for personal injury or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

Contract Termination

55. Termination for Default

- 55.1. If Contractor violates any material term or condition of this Master Contract or fails to fulfill in a timely and proper manner its obligations under this Master Contract, the DIS Contract Administrator or the affected Purchaser shall give Contractor written notice of the failure or violation, and the failure or violation shall be corrected by Contractor within thirty (30) calendar days or as otherwise mutually agreed. If Contractor's failure or violation is not so corrected, Purchaser, at its option, may withhold all monies due and payable to Contractor until such failure to perform is cured or otherwise resolved, or pursue immediate termination of an order or this Master Contract, as appropriate. This Master Contract may be terminated immediately by written notice from the DIS Contracting Officer to Contractor or Purchaser's order may be terminated by written notice from Purchaser to Contractor. The option to terminate this Master Contract shall be at the sole discretion of DIS.
- 55.2. In the event DIS terminates this Master Contract or Purchaser terminates an order, DIS or Purchaser shall have the right to procure the Equipment and Services that are the subject of this Master Contract on the open market and Contractor shall be liable for all damages including, but not limited to:
 - a) The cost difference between the original Master Contract price for the Equipment and Services and the replacement costs of such Equipment and Services acquired from another vendor; and
 - b) If applicable, the lesser of \$50,000 or all administrative costs directly related to the replacement of the Master Contract, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, and staff time costs; and,
 - c) Any other costs to Purchaser or DIS resulting from Contractor's breach. Purchaser or DIS shall have the right to deduct from any monies due to Contractor, or that thereafter become due, an amount for damages that Contractor will owe Purchaser or DIS for Contractor's default.
- 55.3. If either DIS or Purchaser violates any material term or condition of this Master Contract or fails to fulfill in a timely and proper manner its performance obligations under this Master Contract, then Contractor shall give the DIS Contracting Officer or Purchaser, as appropriate, written notice of such failure, which shall be corrected by DIS or Purchaser

within thirty (30) calendar days. If such failure to perform is not so corrected, Purchaser's order may be terminated by written notice from Contractor to Purchaser or, if appropriate, this Master Contract may be terminated immediately by written notice from Contractor to the DIS Contracting Officer.

- 55.4. If it is determined the failure to perform is without the defaulting party's control, fault, or negligence; the termination shall be deemed a Termination for Convenience.
- 55.5. This section shall not apply to any failure to perform that results from the willful or negligent acts or omissions of the aggrieved party.

56. Termination for Convenience

- 56.1. When it is in the best interest of Purchaser or DIS, the DIS Contracting Officer may terminate this Master Contract, in whole or in part, by fourteen (14) calendar days written notice to Contractor. Invocation of the **Termination for Withdrawal of Authority** or **Termination for Non-Allocation of Funds** sections shall be deemed a Termination for Convenience but will not require such fourteen (14) calendar days written notice.
- 56.2. If this Master Contract is so terminated, Purchaser is liable only for payments required by the terms of this Master Contract for Equipment and Services received and accepted by Purchaser prior to the effective date of termination.

57. Termination for Withdrawal of Authority

In the event that the authority of Purchaser or DIS to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Master Contract and prior to normal completion, DIS may terminate this Master Contract under the **Termination for Convenience** section. No penalty shall accrue to Purchaser or DIS for exercising its rights under this section. This section shall not be construed to permit DIS to terminate this Master Contract to acquire similar Equipment or Services from a third party.

58. Termination for Non-Allocation of Funds

If funds are not allocated to continue this Master Contract in any future period, Purchaser or DIS will not be obligated to pay any further charges for Equipment or Services, including the net remainder of agreed to consecutive periodic payments remaining unpaid beyond the end of the then-current period. In such case, Purchaser or DIS agrees to notify Contractor at the earliest possible opportunity of such non-allocation. No penalty shall accrue to Purchaser or DIS for exercising its rights under this section. This section shall not be construed to permit Purchaser or DIS to terminate this Master Contract to acquire similar Equipment or Services from a third party.

59. Termination for Conflict of Interest

DIS may terminate this Master Contract by written notice to Contractor if DIS determines, after due notice and examination, that any party has violated chapter 42.52 RCW, Ethics in Public Service or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this Master Contract is terminated for conflict of interest,

DIS shall be entitled to pursue the same remedies against Contractor as it could pursue in the event Contractor breaches this Master Contract.

60. Termination Procedure

- 60.1. Upon termination of all or part of this Master Contract and in addition to any other rights provided in this Contract, DIS may require Contractor to deliver to Purchaser or DIS, as appropriate, any property or Equipment specifically produced or acquired for the performance of such part of this Master Contract as has been terminated.
- 60.2. Unless otherwise provided herein, Purchaser shall pay to Contractor the agreed-upon price, if separately stated, for Equipment or Services received and accepted by Purchaser, *provided that*, in no event shall Purchaser pay to Contractor an amount greater than Contractor would have been entitled to if this Master Contract had not been terminated. Failure to agree with such determination shall be a dispute within the meaning of the **Disputes** section of this Contract. Purchaser may withhold from any amounts due Contractor for such Equipment or Services, such sum as Purchaser determines necessary to protect Purchaser from potential loss or liability.
- 60.3. Within thirty (30) calendar days of notice, Contractor shall pay any damages due DIS or Purchaser.

Activity Reporting and Administration Fee

61. DIS Master Contract Administration Fee and Collection

- 61.1. K-20 Purchasers are exempt from and shall not pay the DIS Master Contract Administration Fee for purchases made under this Contract. All purchases made by other Purchasers under this Master Contract are subject to a DIS Master Contract Administration Fee which is collected by Contractor and remitted to DIS.
- 61.2. The Master Contract Administration Fee is three tenths of one percent (.3% or .003) of the purchase price. The purchase price is defined as total invoice price less sales tax.
- 61.3. The Master Contract Administration Fee shall be invoiced by Contractor to all Purchasers, as a separate detailed line item on Purchaser's invoice. K-20 Purchasers are exempt from the Fee and their line item shall be zero dollars (\$0).
- 61.4. Contractor shall remit the Master Contract Administration Fee directly to the DIS Contract Administrator along with the Master Contract Activity Report.

62. Master Contract Activity Reporting

- 62.1. Contractor shall submit to the DIS Contract Administrator a monthly Activity Report of all Equipment and Services purchases made pursuant to this Master Contract. The report must identify:
 - a) This Master Contract number, (K00-MST-001);
 - b) Each Purchaser making purchases during that month, separated into K-20 Purchasers and all other Purchasers;
 - c) The total invoice price, excluding sales tax for each Purchaser;

- d) The sum of all invoice prices, excluding sales tax, for all K-20 Purchasers;
 - e) The sum of all invoice prices, excluding sales tax, for all other Purchasers; and,
 - f) The DIS Master Contract Administration Fee.
- 62.2. This report and the DIS Master Contract Administration Fee must be submitted by the 15th calendar day of the month following the month in which Contractor invoiced Purchaser. Contractor shall submit this report according to the layout specified by the DIS Contract Administrator.
- 62.3. This report may be corrected or modified by the DIS Contract Administrator with subsequent written notice to Contractor.
- 62.4. Monthly reports are required even if no activity occurred.

63. Failure to Remit Reports/Fees

- 63.1. Failure of Contractor to remit the Master Contract Activity Report together with the Master Contract Administration Fee may be considered a failure to perform on the part of Contractor, which may result in DIS terminating this Master Contract with Contractor.
- 63.2. Failure of any Purchaser to pay the Master Contract Administration Fee may result in a Purchaser forfeiting its right to purchase from this Master Contract. Contractor shall notify the DIS Contract Administrator when any Purchaser fails to pay the Master Contract Administration Fee.
- 63.3. The DIS Contract Administrator will notify Contractor of any Purchaser who has forfeited its right to purchase under this Master Contract. After such notification, any sale by Contractor to a forfeiting Purchaser may be considered failure to perform by Contractor.
- 63.4. If the performance issues are resolved, DIS, at its option, may reinstate a Contractor's participation or a Purchaser's right to purchase.

Contract Execution

64. Authority to Bind

The signatories to this Master Contract represent that they have the authority to bind their respective organizations to this Contract.

65. Counterparts

This Master Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of the Master Contract signed by each party, for all purposes.

In Witness Whereof, the parties hereto, having read this Master Contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

APPROVED

State of Washington

Department of Information Services

APPROVED

GTE Northwest Incorporated

Michael D. McVicker
Signature

Michael D. McVicker
Print or Type Name

Assistant Director
Title 9/13/99
Date

D.J. Franks
Signature

D.J. Franks
Print or Type Name

Regional Sales Manager
Title 9-2-99
Date

Approved as to Form

State of Washington,
Office of the Attorney General

Cheryl Holcomb
Signature

CHYL HOLCOMB
Print or Type Name

Assistant Attorney General
Title 9/16/99
Date

Contractor's Phone Number: (206) 261-5321
Contractor's Fax Number: (206) 258-9275
Contractor's UBI Number: 313-013-420
Contractor's Federal Tax ID Number: 91-0466810



STATE OF WASHINGTON
DEPARTMENT OF INFORMATION SERVICES
Olympia, Washington 98504-2445

September 10, 2001

Verizon Northwest, Inc.
Attn: Ian Barkley, Sales Manager Major Accounts
1800 41st Street, MS: WA 0104SM
Everett WA 98206

RE: Extension (02-05) of State of Washington Contract Number K00-MST-001
for Small Group Videoconferencing Systems

Dear Mr. Barkley:


The current term of Contract K00-MST-001 will expire on September 15, 2001. Pursuant to Provision 2 (Term), this letter is written notice to Verizon Northwest Incorporated of the Department of Information Services' intent to extend this contract for two additional years, specifically through September 15, 2003. Assuming this extension is acceptable to Verizon, please indicate acceptance by appropriate signature below.

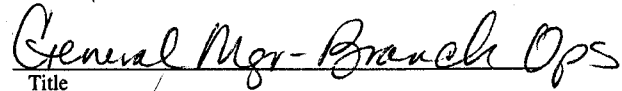
Please return one signed original to DIS to the attention of the TSD Contract Administrator at the address below and keep the other original for your file. Thank you.

Sincerely,

Michael D. McVicker, Assistant Director
Department of Information Services
PO Box 42445
Olympia Washington 98504-2445

By signature below, **Verizon Northwest Incorporated** indicates its acceptance of the extension of Contract Number K00-MST-001 with the State of Washington, Department of Information Services through September 15, 2003.


Signature
Shelley Murphy
Print or Type Name


Title
Date 9/13/01



Amendment Number 01-04
To
Contract Number K00-MST-001
For
Small Group Videoconferencing Systems

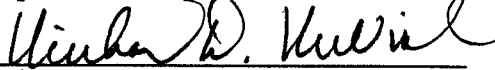
In accordance with Section 32 (*Authority for Modification and Amendments*) of Contract Number K00-MST-001, as previously amended (the "Contract"), this amendment 01-04 ("Amendment") is entered into by and between the State of Washington, Department of Information Services ("DIS") and Verizon Northwest Inc. ("Contractor").

Contractor and State hereby agree to amend the Contract as follows:

1. Pursuant to Provision 31 (*Additional Services and Equipment*), Schedule A is hereby amended to add new equipment and pertinent pricing.
2. Pursuant to Paragraph 4 (*Pricing*), Schedule A as previously amended (Amendment 00-02) is replaced in its entirety with the revised Schedule A (dated 4/20/01) as attached. This revised Schedule A reflects the new equipment added and current pricing.
3. All other provisions of Contract K00-MST-001, as previously amended shall remain in full force and effect.

This amendment shall be effective as of the date signed by DIS.

APPROVED
State of Washington
Department of Information Services


Signature

Michael D. McVicker

Print or Type Name

Assistant Director
Telecommunications
Services Division

Title

5/21/01

Date

APPROVED
Verizon Northwest Inc.


Signature

Shelley Murphy

Print or Type Name

General Manager
Branch Operations

Title

4/30/01

Date

Approved as to Form
By: <u>CJB</u>
Date: <u>4/20/01</u>

State of Washington
Department of Information Services

K00-MST-001
Amendment 01-04

AMENDMENT NUMBER 01-03
to
Contract Number K00-MST-001
for Small Group Videoconferencing Systems

In accordance with Section 32 (Authority for Modifications and Amendments) of Contract Number K00-MST-001 for Small Group Videoconferencing Systems (the "Contract"), this Amendment is entered into by and between the State of Washington, Department of Information Services ("State") and Verizon Northwest Inc., formerly GTE Northwest Incorporated ("Contractor").

1. Pursuant to Section 2.2 of the Contract, Contractor and State hereby agree to extend the Term of the Contract from September 15, 2000 through September 15, 2001. The Parties agree that there has been no breach of Section 2.2 of this Agreement.
2. This Amendment shall be effective as of September 15, 2000.
3. All other provisions, terms and conditions of the Contract, as previously amended, shall remain in full force and effect.

Note: Subsequent to a corporate merger, GTE Northwest Incorporated is now Verizon Northwest Inc.

APPROVED
State of Washington
Department of Information Services

Michael D. McVicker
Signature
Michael D. McVicker
Print or Type Name
Assistant Director
9/15/2000
Date
Title

APPROVED
Verizon Northwest Inc.

Shelley Murphy
Signature
Shelley Murphy
Print or Type Name
General Manager-Branch Operations
9/15/00
Date
Title

Approved as to Form
By: <u>CUP</u>
Date: <u>9/15/00</u>

K00-MST-001
Amendment 01-03

Amendment Number 00-02
Contract Number K00-MST-001
for
Small Group Videoconferencing Systems

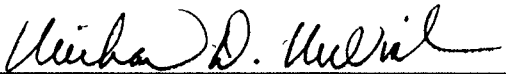
In accordance with Provision 32 (*Authority for Modifications and Amendments*) of Contract Number K00-MST-001, this Amendment 00-02 is entered into by and between the State of Washington, Department of Information Services ("DIS") and GTE Northwest Incorporated ("Contractor").

1. Pursuant to Provision 31 (*Additional Services and Equipment*), Schedule A is hereby amended to add new equipment and pertinent pricing.
2. Pursuant to Paragraph 4 (*Pricing*), Schedule A (attached) is hereby amended and replaced in its entirety to reflect the additions.
3. All other provisions of Contract K00-MST-001, as previously amended shall remain in full force and effect.

This Amendment shall be effective as of the date signed by DIS.

Approved

State of Washington,
Department of Information Services



Signature

Michael D. McVicker

Print or Type Name

Assistant Director

Title

5/19/00

Date

Approved

GTE Northwest Incorporated



Signature

Shelley Murphy

Print or Type Name

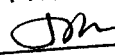
General Mgr- Branch Ops

Title

5/17/00

Date

FORM APPROVED



Attorney

5/15/00

Date

Amendment Number 00-01
Contract Number K00-MST-001
for
Small Group Videoconferencing Systems

In accordance with Provision 32 (*Authority for Modifications and Amendments*) of Contract Number K00-MST-001, this Amendment 00-01 is entered into by and between the State of Washington, Department of Information Services ("DIS") and GTE Northwest Incorporated ("Contractor").

The purpose of this Amendment 00-01 is to add Washington State Public Library Systems to the Authorized K-20 Purchasers (Schedule C) and to expunge language that required a K-20 Purchaser to enter into an Interlocal Cooperative Agreement with DIS. Specifically, Contract Number K00-MST-001 is amended in the following manner:


1. In Provision 1 (*Definitions*), the definition of "Purchaser" is deleted and replaced by the following:

"Purchaser" shall mean any Washington State agency with proper delegated authority to purchase the Equipment and Related Services which are the subject of this Master Contract, or any political subdivision of the state of Washington or non-profit organization with the authority to purchase such Equipment or Related Services pursuant to a properly executed Interlocal Cooperative Agreement with DIS. **"Purchaser"** also includes K-20 Purchasers.

2. Washington State Public Library Systems are added to Schedule C (*Authorized K-20 Purchasers*).
3. All other provisions of Contract K00-MST-001 shall remain in full force and effect.

Approved

State of Washington,
Department of Information Services



Signature

Michael D. McVicker

Print or Type Name

Assistant Director

Title

12/8/99
Date

Approved

GTE Northwest Incorporated



Signature

Shelley Murphy

Print or Type Name

General Manager

Branch Operations

Title

12/3/99
Date

FORM APPROVED



Attorney

Date 12/2/99

State of Washington
Department of Information Services

K00-MST-001
Amendment 00-01